

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6102 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1to 5: No

B H GADHVI

Versus

DY.CHIEF SECURITY COMMISSIONER

Appearance:

MR RAVI R TRIPATHI for Petitioner

Mr.DK Nagrani for MR S S SHAH for Respt.1, 2, 3, 4

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 05/03/98

ORAL JUDGEMENT

1. The petitioner was a Sub-Inspector in the Railway Protection Force and by the impugned order dated 20th September 1988, he was removed from service. His appeal also came to be dismissed on 7th December 1988. Para 7 of the order of the Inspector General, RPF-cum-Chief Security Commissioner, reads as follows:-

"RPF being an armed force of the Union, its members are expected to maintain high sense of discipline and integrity. However, the appellant displayed an attitude of indiscipline wherein he remained absent for a period of over 20 months. Besides, instead of approaching the Enquiry Officer with a clean hand, he forged the sick/ fit certificates and attempted to hoodwink the

Administration; with the result that the latter can no longer repose any trust in him making his retention in the Force as redundant. As such, there is no scope to tamper with the concurrent findings of facts as they are warranted by evidence on record. "

2. On behalf of the petitioner, the learned Counsel has submitted that having regard to the unfortunate circumstances of the petitioner, the absence and other things have happened. In para 12 of the petition, it is submitted that during the period of absence from duty and even during suspension, the petitioner's wife was suffering from severe mental depression and the petitioner's presence was absolutely necessary to look after her. Moreover, the petitioner was under suspension and he had one daughter of marriageable age and three minor children and he was otherwise also, economically hard pressed and in great adverse circumstances.

4. Having regard to all these, it is submitted by the learned Counsel for the petitioner that sufficient punishment has been undergone by the petitioner and it is suggested that it can be converted into punishment of compulsory retirement so that the petitioner at least can get the benefit of his past service.

5. Having regard to the circumstances of the case, it appears that the ends of justice would be met by directing that the punishment of removal from service be converted into one of compulsory retirement from the same date and consequently, the petitioner may be paid the benefits payable to him on such compulsory retirement.

Rule is made absolute accordingly.

mhs/-